



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,992	03/30/2004	Yasuhiro Matsunaga	U2054.0150	2667
32172	7590	06/19/2007	EXAMINER	
DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714			SAMS, MATTHEW C	
		ART UNIT		PAPER NUMBER
		2617		
		MAIL DATE	DELIVERY MODE	
		06/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/811,992	MATSUNAGA, YASUHIKO	
	Examiner	Art Unit	
	Matthew C. Sams	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 April 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16,46 and 49 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16,46 and 49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 3/30/2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Art Unit: 2617

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statements filed on 6/17/2004 and 3/20/2006 have been considered.

Election/Restrictions

3. Claims 17-45, 47, 48, 50, & 51 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected Groups II and III, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/25/2007.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 46 and 49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 46, the claims recites a "computer-readable program for controlling an operation of a communication terminal", however the body of the claims

Art Unit: 2617

are limited to the program and fails to breath life into the invention by including a structural or a functional interrelationship between the "computer-readable program" and the elements of the computer that would permit the functionality of the program to be realized and thus, statutory. The examiner suggests, "A computer-readable program for controlling the operation of a communication terminal connectable to a plurality of communication systems, said program encoded on a computer-readable medium when executed by a (processor, controller)..." and thereby claiming a statutory computer element containing the computer program.

Regarding claim 49, the claim recites a "computer-readable recording medium stored a program for controlling an operation of a communication terminal", however the body of the claims are limited to the program and fails to breath life into the invention by including a structural or a functional interrelationship between the "computer-readable recording medium" and the elements of the computer that would permit the functionality of the program to be realized and thus, statutory. The examiner suggests "A computer-readable recording medium storing a program for controlling an operation of a communication terminal connectable to a plurality of communication systems, the program when executed by a (processor, controller) characterized..." and thereby claiming a statutory computer element containing the computer program.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2617

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1- are rejected under 35 U.S.C. 102(e) as being anticipated by Reynolds (US 2003/0125028).

Regarding claim 1, Reynolds teaches a communication terminal (Fig. 1 [8]) connectable to a plurality of communication systems (Fig. 1 [2, 4 & 6] and Page 1 [0012]), said communication terminal comprising communication system selection means for deciding the communication system to which to connect, based upon a communication link quality (Page 2 [0025]), and a connection policy set for each of said plurality of said communication systems. (Page 2 [0017-0026])

Regarding claim 2, Reynolds teaches a connection policy that includes a priority of a connection (Page 2 [0022]) and the communication system selection means comprises a means for making a connection to the communication system of which said communication link quality is equal to or more than a first threshold (Fig. 2 [116]), and yet of which said priority is highest (Fig. 2 [128]), with a change in the communication link quality. (Fig. 2 and Pages 2-3 [0028-0029])

Regarding claim 3, Reynolds teaches said communication terminal wherein said connection policy includes connection advisability information indicating advisability of a connection set for each of said plurality of said communication systems; (Page 2 [0017-0022]) and

Art Unit: 2617

said communication system selection means comprises means for making a connection to the communication system of which said priority is highest, out of the communication systems of which said communication link quality is equal to or more than said first threshold, and yet of which said connection advisability information indicates pro, with a change in the communication link quality. (Fig. 2 and Pages 2-3 [0028-0029])

Regarding claim 4, Reynolds teaches the communication terminal comprises a means for making a connection to the communication system of which said connection advisability information indicating con in response to a user's manual operation. (Page 2 [0028])

Regarding claim 5, Reynolds teaches the communication terminal comprises means for setting so that said first threshold and said priority for each of said communication systems have a negative correlation. (Pages 2-3 [0028] and Fig. 2)

Regarding claim 6, Reynolds teaches a communication terminal characterized in that said communication system selection means, which has a maximum simultaneous-connection communication system number, is means for disconnecting a connection to the communication system of which said priority is lowest in a case where the communication system number in connection exceeded said maximum simultaneous-connection communication system number, with a change in the communication link quality. (Page 3 [0034])

Regarding claim 7, Reynolds teaches a connection policy includes a second threshold of the communication link quality set for each of a plurality of the

Art Unit: 2617

communication systems, with which a connection should be terminated; (Page 2 [0025]) and

 said communication system selection means is means for disconnecting a connection to the communication system of which said communication link quality amounted to less than said second threshold, with a change in the communication link quality. (Page 3 [0030] and Fig. 3)

 Regarding claim 8, Reynolds teaches a connection policy includes disconnection advisability information indicating advisability of a disconnection set for each of said plurality of said communication systems; (Page 3 [0030-0034]) and

 said communication system selection means is means for disconnecting a connection to the communication system of which said priority is lowest, out of the communication systems of which said communication link quality is less than said second threshold, and yet of which said disconnection advisability information indicates pro, with a change in the communication link quality. (Pages 3-4 [0035-0042])

 Regarding claim 9, Reynolds teaches a communication terminal comprising means for disconnecting a connection to the communication system of which said disconnection advisability information indicates con in response to a user's manual operation, or in response to deterioration in the above quality to the degree that the communication link is impossible to maintain. (Page 3 [0033-0035])

 Regarding claim 10, Reynolds teaches a communication terminal comprising means for setting so that said second threshold and said priority for each of said communication systems have a negative correlation. (Page 3 [0031-0032])

Regarding claim 13, Reynolds teaches that at least one of said priority, said first threshold, said second threshold, said connection advisability information, said disconnection advisability information, said notification advisability information, and said authentication advisability information is notified from said communication system side; (Page 2 [0018-0022 & 0025]) and

including means for receiving and setting this. (Page 2 [0025], Page 3 [0030] & Fig. 3)

Regarding claim 14, Reynolds teaches the communication terminal characterized in including means for receiving a notification of offer-enable throughput based upon a congestion status of a wireless interface and a wire network from each of said plurality of said communication systems to set said priority so that said priority has a positive correlation as against said throughput. (Page 2 [0025])

Regarding claim 15, Reynolds teaches the communication terminal comprising means for receiving a notification of accounting information from each of said plurality of said communication systems to set said priority so that said priority has a negative correlation as against said accounting information. (Page 2 [0018])

Regarding claim 16, Reynolds teaches the communication terminal is at least one of a wireless communication system and a wire communication system. (Page 1 [0012] and Fig. 1)

Regarding claim 46, the limitations of claim 46 are rejected as being the same reason set forth above in claim 1.

Regarding claim 49, the limitations of claim 49 are rejected as being the same reason set forth above in claim 1.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds in view of Balogh (US-6,870,822).

Regarding claim 11, Reynolds teaches the limitations of claim 1 above, but differs from the claimed invention by not explicitly reciting connection policy includes notification advisability information indicating whether or not a change in the connection status is notified to a user and including means for, in a case where said notification advisability information indicates pro, making a notification to the user in response to a connection/ disconnection to/ from the communication system by said communication system selection means for each of said plurality of said communication systems.

In an analogous art, Balogh teaches a method and system for mobility in a telecommunication system that includes a connection policy includes notification advisability information indicating whether or not a change in the connection status is notified to a user; (Fig. 4 [408]) and

Art Unit: 2617

including means for, in a case where said notification advisability information indicates pro, making a notification to the user in response to a connection/disconnection to/from the communication system by said communication system selection means for each of said plurality of said communication systems. (Fig. 4 [409] and Col. 8 line 43 through Col. 9 line 25) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the system of Reynolds after modifying it to incorporate the notification system of Balogh. One of ordinary skill in the art would have been motivated to do this since it gives the user control as to which wireless network the mobile device is connected.

Regarding claim 12, Reynolds in view of Balogh teaches the connection policy includes authentication advisability information indicating whether or not the user is prompted for inputting authentication information at the time of connection for each of said plurality of said communication systems; (Balogh Col. 4 lines 27-37 & Col. 5 lines 29-38) and

Including means for, in a case where said authentication advisability information indicates pro, prompting the user for inputting the authentication information at the time of initiating the connection by said communication system selection means to acquire and set a cryptography key for communication from the communication system in a case where the authentication succeeded. (Balogh Col. 4 lines 27-37 & Col. 5 lines 29-38)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew C. Sams whose telephone number is (571)272-8099. The examiner can normally be reached on M-F 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCS
6/2/2007

Duc M. Nguyen
DUC M. NGUYEN
SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER 2600